UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
MARTINEZ, DAVID E

ART UNIT	PAPER NUMBER
2181	

NOTIFICATION DATE	DELIVERY MODE
10/16/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docket@splglaw.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 July 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>9-16 and 21</u> is/are allowed.

6)☒ Claim(s) <u>1-8 and 17-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

Claims 1-3, 5-8 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Applicant's Admitted Prior Art found in the US Patent Application Publication No.

2005/0114568 A1 of the instant application no. 10/722,914 (hereinafter AAPA). in view of US

Patent No. 7,180,619 to Ferlitsch and further in view of US Patent Application Publication No.

US 2001/0040691 A1 to Sakamoto.

1.   With regards to claims 1, and 17, AAPA teaches a method for managing outputs to

peripheral devices in medical systems devices, said method comprising:

providing an instruction to control a peripheral [paragraphs 2-3];

creating a data object based on the instruction [paragraphs 2-3];

storing the data object in a first memory [the built in removable media used to transfer

data - thus being non volatile – paragraph 3] if the peripheral device [paragraph 3] is not

accessible (claims 1 and 17) and not available to accept the data object [paragraph 3].

AAPA teaches all of the above limitations but is silent as to storing the data object in a

second memory to be output to the peripheral device, wherein the second memory is not a

component of the peripheral device; the above step of storing the data object in a first memory

being done instead of the second memory; and wherein the first memory stores the data object

for a longer term than a second memory; and determining whether the peripheral device is

available to accept the data object before attempting to output the data object to the peripheral device.

However, Ferlitsch teaches storing a data object in a second memory [the output of a print driver is a spool file and is stored in memory or cache] to be output to a peripheral device [a printing device], wherein the second memory is not a component of the peripheral device [the memory and cache are part of a source computing device and the printing device is a separate destination element – column 4 line 52 to column 6 line 4]; the above step of storing the data object in a first memory being done instead of the second memory [During a print failure, the data object is stored in a non-volatile memory since the data object is restored after a re-boot of the system – column 4 line 52 to column 6 line 4]; and wherein the first memory stores the data object for a longer term than a second memory [non-volatile memory stores data for a longer term than a memory or cache – column 4 line 52 to column 6 line 4] for the benefit of recovering/restarting a failed job when a peripheral device is available [column 4 line 52 to column 6 line 4].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of AAPA and Ferlitsch to store a data object in a second memory [Ferlitsch - the output of a print driver is a spool file and is stored in memory or cache - column 4 line 52 to column 6 line 4] to be output to a peripheral device [Ferlitsch - a printing device - column 4 line 52 to column 6 line 4], wherein the second memory is not a component of the peripheral device [Ferlitsch - the memory and cache are part of a source computing device and the printing device is a separate destination element – column 4 line 52 to column 6 line 4]; the above step of storing the data object in a first memory being done instead of the second memory [Ferlitsch - During a print failure, the data object is stored in a non-volatile memory since the data object is restored after a re-boot of the system – column 4 line 52 to column 6

line 4]; and wherein the first memory stores the data object for a longer term than a second

memory [Ferlitsch - non-volatile memory stores data for a longer term than a memory or cache

– column 4 line 52 to column 6 line 4] for the benefit of recovering/restarting a failed job when a

peripheral device is available [Ferlitsch - column 4 line 52 to column 6 line 4].

Furthermore, Sakamoto teaches determining whether the peripheral device is available

to accept the data object before attempting to output the data object to the peripheral device

[paragraphs 4, 18] for the benefit of determining the state of a peripheral device prior to

executing an action on the peripheral [paragraphs 4, 18].

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of AAPA, Ferlitsch and Sakamoto to determine whether the peripheral

device is available to accept the data object before attempting to output the data object to the

peripheral device [Sakamoto paragraphs 4, 18] for the benefit of determining the state of a

peripheral device prior to executing an action on the peripheral [Sakamoto paragraphs 4, 18].

2.   With regards to claims 2 and 18, the combination of AAPA, Ferlitsch and Sakamoto

teaches a method in accordance with claim 1 further comprising:

transferring the data object from the second memory to the first memory upon

determining that the peripheral device is not available [Ferlitsch - column 4 line 52 to column 6

line 4], combined under the same rationale as that of claim 1 above.

3.   With regards to claims 3 and 19, AAPA teaches enabling a user to access the data

object from the first memory [paragraphs 2-3].

4.   With regards to claim 5, AAPA teaches a method in accordance with claim 1 wherein

said providing the instruction to control the peripheral device comprises one of [←Please Note

the Alternative Language]:

instructing to print [paragraph 2]; text, report, images,

instructing to record to a video cassette recorder;

instructing to electronically mail a copy of images to a remote location;

instructing to create a copy of the images on one of a floppy disk, a magneto-optical

disk, a CD, a DVD, a flash memory card, and a digital versatile disc [paragraph 3]; and

instructing to create a copy of a patient's information on the digital versatile disc.

5.   With regards to claim 6, AAPA teaches a method in accordance with claim 1 wherein

said creating the data object based on the instructions comprises one of [←Please Note the

Alternative Language]:

creating a first data object that instructs to print [paragraphs 2-3];

creating a second data object that instructs to record to a video cassette recorder;

creating a third data object that instructs to electronically mail a copy of images to a

remote location;

creating a fourth data object that instructs to create a copy of images on one of a floppy

disk, a magneto-optical disk, and a digital versatile disc [paragraph 3]; and

creating a fifth data object that instructs to create a copy of a patient's information on the

digital versatile disc.

6.   With regards to claim 7, AAPA teaches a method in accordance with claim 1 wherein

said storing the data object in the first memory if the peripheral device that provides the output is

not available to accept the data object comprises:

storing the data object in the first memory if the peripheral device that provides the

output is at least one of [note alternative language] deenergized, operationally de-coupled from

said processor, and unoperational [paragraphs 2-3].

7.   With regards to claim 8, AAPA teaches a method in accordance with claim 1 wherein a

processor is configured to create the data object based on the instructions and wherein said

storing the data object in the first memory if the peripheral device that provides the output is not

available to accept the data object comprises: storing the data object in the first memory if the

peripheral device that provides the output is operationally de-coupled from the processor

[paragraphs 2-3].

Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant's Admitted Prior Art found in the US Patent Application Publication No. 2005/0114568

A1 of the instant application no. 10/722,914 (hereinafter AAPA) in view of US Patent No.

7,180,619 to Ferlitsch in view of US Patent Application Publication No. US 2001/0040691 A1 to

Sakamoto and further in view of US Patent Application Publication No. US 2002/0063880 A1 to

Raney.

8.   With regards to claims 4 and 20, the combination of AAPA, Ferlitsch and Sakamoto is

silent as to a method in accordance with claim 1 further comprising: acknowledging that the data

object is received by the peripheral device if the data object is received by the peripheral device,

however, teaches acknowledging that a data object is received by a peripheral device if the data

object is received by the peripheral device for the benefit of providing important information to a

user for the purpose of enabling the user to rectify and avoid problems [paragraphs 25, 6].

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of AAPA, Ferlitsch, Sakamoto and Raney to acknowledge that the

data object is received by the peripheral device if the data object is received by the peripheral

device for the benefit of providing important information to a user for the purpose of enabling the

user to rectify and avoid problems.

Allowable Subject Matter

Claims 9-16 and 21 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance:

With regards to claim 9, the prior art of record alone or in combination fails to teach or fairly suggest automatically determine whether the peripheral device is available to accept the data object after the data object has been stored in the first memory, in combination with the other limitations found in the claim.

With regards to claims 10-16 and 21, due to their direct or indirect dependency from claim 9, they are allowed for at least the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 1-8 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. MARTINEZ whose telephone number is (571)272-4152. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alford Kindred can be reached on 571-272-4037. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alford W. Kindred/
Supervisory Patent Examiner, Art Unit 2181

DEM